

**UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**

CLAUDIOUS W. CHANNER,	:	
Petitioner,	:	
	:	3:89cr91(PCD)
vs.	:	3:96cv1863(PCD)
	:	
UNITED STATES OF AMERICA,	:	
Respondent.	:	

**RULING ON MOTION SEEKING AN AMENDMENT OF ORDER**

Petitioner moves to amend the order resulting from the granting of his motion to vacate, correct or set aside his federal criminal sentence pursuant to 28 U.S.C. § 2255. The motion is **denied**.

On November 2, 1989, petitioner was indicted on three charges: possession of a weapon by a convicted felon, in violation of 18 U.S.C. § 922 (g); using a firearm in connection with a drug trafficking crime, in violation of 18 U.S.C. § 924 (c); and possession of cocaine with intent to distribute, in violation of 21 U.S.C. § 841 (a) (1). Petitioner pled guilty to the charged violation of § 924 (c) and was sentenced to a term of imprisonment of five years. The remaining charges were dismissed.

Petitioner then filed a § 2255 petition to vacate the sentence in light of *Bailey v. United States*, 516 U.S. 137, 116 S. Ct. 501, 133 L. Ed. 2d 472 (1995). By ruling dated June 17, 1998, this Court stated that

[P]etitioner finished serving his federal sentence on this charge and was transferred to state custody on March 23, 1994 to begin serving a state sentence on unrelated convictions. . . . Petitioner was not convicted of any other counts, thus resentencing is not possible. The government agrees that based on the circumstances, petitioner's conviction of violation of one count of 18 U.S.C. § 924 (c) should be vacated.

Order of 6/17/98 at 2. Petitioner now asks, in light of the foregoing, that this Court direct the state court to credit him for time served on his vacated federal conviction.

The documents provided by petitioner, which include the ruling on his § 2255 petition and excerpts of the transcript from his sentencing, indicate both that he was notified at the time of sentencing that this Court had no control over his state court sentence on charges unrelated to his federal charges and that he is no longer subject to a federal sentence. The decision whether to credit petitioner's time served on the vacated federal sentence is left to the State of Connecticut. If petitioner believes his state criminal sentence to be invalid in light of promises made by the State, he may file a separate proceeding pursuant to 28 U.S.C. § 2254 provided he has first exhausted remedies available through the State of Connecticut.

Petitioner's motion to alter or amend the judgment denying his § 2255 petition (Doc. No. \_\_\_\_)  
is **denied**.

SO ORDERED.

Dated at New Haven, Connecticut, March \_\_\_, 2003.

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Peter C. Dorsey  
United States District Judge